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In re Application of :
Feick et al. :
US Application No.: 10/070,339 :
PCT Application No.: PCT/US01/32309 :
International Filing Date: 17 October 2001 : COMMUNICATION
Priority Date: 17 October 2000 :
Attorney's Docket No.: 24717-719 :
For: METHOD AND APPARATUS FOR :
COMMUNICATING DATA WITHIN :
MEASUREMENT TRAFFIC :

This communication is in response to the "Completion of Filing Requirements - Nonprovisional Application" filed on 17 January 2003.

BACKGROUND

On 17 October 2001, Applicants filed international application PCT/US01/32309, which claimed priority of an earlier application filed on 17 October 2000. The period for paying the basic national fee is 30 months and ended at midnight on 17 April 2003.

On 27 February 2002, Applicants filed a transmittal letter for entry into the national stage in the United States (Form PTO-1390), accompanied by, *inter alia*, the \$355 basic national fee (small entity) required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(1), but not an oath or declaration.

On 18 November 2002, a "Notification of Missing Requirements under 37 CFR 371 in the United States Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905) was mailed, stating that an oath or declaration in compliance with 37 CFR 1497(a) and (b) was missing, and requesting the submission of a proper oath or declaration within the later of 2 months from the 18 November 2002 mailing date of the Notification of Missing Requirements, or, 32 months from the 17 October 2000 priority date. The instant petition then followed.

DISCUSSION

An international application enters the national stage under 35 U.S.C. 371(c) upon submission of the following:

- (1) the appropriate basic national fee;
- (2) a copy of the international application;
- (3) an English translation of the international application if the international application was filed in another language;
- (4) an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

The basic national fee and a preliminary amendment were filed on 27 February 2002.

The declaration filed with the instant petition does not comply with 37 CFR 1.497(a)(3) which requires that the oath or declaration identify each inventor and the inventor's country of citizenship. The submitted declaration has 2 defects:

- (a) The country of citizenship for inventor Mansour J. Karam is missing. 35 U.S.C. 115.
- (b) The name of inventor Jose-Miguel Pulido **Villaverde** has been altered to Jose-Miguel **Pulido** (emphasis added) which is inconsistent with the name identified in the published international report, Jose-Miguel Pulido VILLAVERDE, and in the assignment document executed by this inventor on 18 December 2002.

In this respect, the declaration is also unacceptable, in that, it is not clear whether "Villaverde" or "Pulido" is this inventor's last name.

If the name as shown in the published international application is incorrect and the spelling in the declaration is correct, then a petition under 37 CFR 1.182, including the requisite fee, to accept the name as set forth on the declaration must be filed. Such a petition should include an explanation of the discrepancy.

If, on the other hand, the name as spelled in the published international application is correct, a supplemental declaration must be submitted.

CONCLUSION

In view of the above, the application is not entitled to a 35 U.S.C. 371 date at the present. The petition is thus **DISMISSED**. However, Applicants' claim for priority is acknowledged. The application has an international filing date of 17 October 2001 under 35 U.S.C. 363.

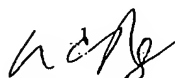
Applicants are required to complete the response within a time limit of **ONE MONTH** from the mailing date of this communication or within the time remaining in the response period set forth in the Notification of Missing Requirements (Form PCT/DO/EO/905), whichever is longer. No extension of time may be granted under 37 CFR 1.136, but the time period for response set in the Notification of Missing Requirements (Form PCT/DO/EO/905) may be extended under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to:

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